

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GEC US 1 LLC, *et al.*,

Plaintiffs,

v.

FRONTIER RENEWABLES, LLC,

Defendant.

Case No.: 16-cv-1276 YGR

**ORDER TO SHOW CAUSE RE: DIVERSITY OF
CITIZENSHIP**

FRONTIER RENEWABLES, LLC,

Counterclaim Plaintiff,

v.

ACTIVE SOLAR GMBH, *et al.*,

Counterclaim Defendants.

TO THE PARTIES AND THEIR COUNSEL OF RECORD:

Plaintiffs GEC US 1 LLC, *et al.* (collectively, “Plaintiffs”) and counterclaim plaintiff Frontier Renewables, LLC (“Counterclaim Plaintiff”) are hereby **ORDERED TO SHOW CAUSE** why this case should not be dismissed for want of subject matter jurisdiction.

Plaintiffs filed this action on March 15, 2016 and Counterclaim Plaintiff filed its counterclaims, impleading third-party defendants (collectively, “Counterclaim Defendants”), on March 25, 2016. (Dkt. Nos. 1, 25.) Plaintiffs’ and Counterclaim Plaintiff’s sole stated basis for subject matter jurisdiction was diversity jurisdiction. (*Id.*) Specifically, they alleged that the amount in controversy in this matter exceeded \$75,000 and that there was complete diversity of citizenship among the parties pursuant to 28 U.S.C. § 1332. (*Id.*) For purposes of this Order, the Court accepts the parties’ allegations with respect to the amount in controversy. This Order to Show Cause issues

1 because Plaintiffs and Counterclaim Plaintiff have not made an adequate showing with respect to
2 diversity.

3 A diversity case may only be brought pursuant to § 1332 “if there is complete diversity
4 between all plaintiffs and all defendants.” *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 82 (2005). In
5 this case, plaintiffs GEC US 1 LLC, AS (Wright) LLC, and Counterclaim Plaintiff are all LLCs, that
6 is, limited liability corporations. “[A]n LLC is a citizen of every state of which its owners/members
7 are citizens.” *Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006).
8 Accordingly, to establish diversity, Plaintiffs must specify the citizenship of every state of which their
9 owners or members are citizens, and establish that the citizenship of Plaintiffs is completely diverse
10 from the citizenship of Counterclaim Plaintiff. Similarly, Counterclaim Plaintiff must specify the
11 citizenship of every state of which its owners or members are citizens, and establish that
12 Counterclaim Plaintiff’s citizenship is completely diverse from the citizenship of all Counterclaim
13 Defendants.

14 Here, Plaintiffs and Counterclaim Plaintiff have not carried their burden. Rather, Plaintiffs
15 have specified only the state under whose laws GEC US 1 LLC was formed and Counterclaim
16 Plaintiff’s principal place of business. (Dkt. No. 1 ¶¶ 3, 6.) Those facts are responsive to the test for
17 citizenship for a corporation, *see* 28 U.S.C. § 1332(c)(1), but for diversity purposes, LLCs are treated
18 like partnerships, not corporations, *Johnson*, 437 F.3d at 899. “[D]espite the functional similarity
19 between limited partnerships and corporations, a limited partnership’s citizenship for diversity
20 purposes can be determined only by reference to all of the entity’s members.” *Kuntz v. Lamar Corp.*,
21 385 F.3d 1177, 1182 (9th Cir. 2004) (citing *Carden v. Arkoma Associates*, 494 U.S. 185, 195-96
22 (1990)). The same holds true for an LLC. *Johnson*, 437 F.3d at 899. Accordingly, Plaintiffs GEC
23 US 1 LLC and AS (Wright) LLC must specify the citizenship of each of their members to
24 demonstrate they satisfy the requirement of complete diversity from Counterclaim Plaintiff.¹
25 Likewise, Counterclaim Plaintiff must specify the citizenship of each of its members and the
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28 ¹ By contrast, with respect to plaintiff Activ Solar Holdings (US) Inc., Plaintiffs must specify its state of incorporation and its principal place of business. *See* 28 U.S.C. § 1332(c)(1).


1 citizenship of each of the Counterclaim Defendants to demonstrate it satisfies the requirement of
2 complete diversity with respect to its counterclaims.

3 No later than **Monday April 25, 2016**, Plaintiffs and Counterclaim Plaintiff must each file a
4 written response to this Order to Show Cause. Their responses shall set forth the bases for their
5 assertions of complete diversity of citizenship from all adverse parties, and shall include declarations
6 or affidavits supporting any statements of fact, consistent with Civil Local Rule 7-5.

7 The Court **SETS** an Order to Show Cause hearing on **Friday, April 29, 2016 at 9:01 a.m.** in
8 the Federal Courthouse located at 1301 Clay Street in Oakland, California, Courtroom 1. If Plaintiffs
9 and Counterclaim Plaintiff have timely filed their responses, the hearing shall be taken off calendar
10 and no appearance shall be required. Failure to file a response timely may result in sanctions and
11 dismissal for failure to make a jurisdictional showing.

12 **IT IS SO ORDERED.**

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14 Dated: April 18, 2016

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16 YVONNE GONZALEZ ROGERS
17 UNITED STATES DISTRICT COURT JUDGE
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